

HOUSE BILL 1118

N1

EMERGENCY BILL

0lr1732

By: **Delegate Niemann**

Introduced and read first time: February 17, 2010

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Foreclosures of Residential Property – Loss Mitigation and**
3 **Settlement**

4 FOR the purpose of requiring certain documents to accompany a notice of intent to
5 foreclose a mortgage or deed of trust on residential property; requiring an order
6 to docket or a complaint to foreclose a mortgage or deed of trust on residential
7 property to include payment of a certain filing fee and be accompanied by a
8 certain affidavit under certain circumstances; altering the contents of a certain
9 notice that must accompany an order to docket or complaint to foreclose under
10 certain circumstances; requiring an order to docket or a complaint to foreclose to
11 be accompanied by a certain homeowner challenge petition or a certain loss
12 mitigation application under certain circumstances; requiring a mortgagor or
13 grantor to be mailed a certain final loss mitigation affidavit and homeowner
14 challenge petition under certain circumstances; prohibiting a foreclosure sale on
15 residential property from occurring until after the later of certain dates;
16 providing that the filing of a homeowner challenge petition stays a foreclosure
17 proceeding under certain circumstances; requiring a court to make a certain
18 determination and order a certain settlement conference under certain
19 circumstances; imposing certain conditions on the conduct of certain parties at a
20 settlement conference; authorizing the court to continue a stay or dismiss a stay
21 in a foreclosure proceeding under certain circumstances; requiring revenue
22 collected from a certain filing fee to be distributed to a certain housing
23 counseling fund; establishing a certain housing counseling fund in the
24 Department of Housing and Community Development; requiring the
25 Commissioner of Financial Regulation to adopt regulations to prescribe the form
26 and content of certain documents required under this Act; establishing the form
27 of certain documents that shall be used until certain regulations are adopted
28 under this Act; terminating the use of certain documents and requiring the use
29 of certain documents under certain circumstances; defining certain terms;
30 making this Act an emergency measure; and generally relating to loss
31 mitigation and settlement in foreclosures of residential property.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Real Property
3 Section 7–105.1
4 Annotated Code of Maryland
5 (2003 Replacement Volume and 2009 Supplement)

6 BY adding to
7 Article – Housing and Community Development
8 Section 4–507
9 Annotated Code of Maryland
10 (2006 Volume and 2009 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Real Property**

14 7–105.1.

15 (a) (1) In this section[, “residential”] **THE FOLLOWING WORDS HAVE THE**
16 **MEANINGS INDICATED.**

17 (2) **“FINAL LOSS MITIGATION AFFIDAVIT” MEANS AN AFFIDAVIT**
18 **CERTIFYING THAT THE SECURED PARTY OR THE SECURED PARTY’S DESIGNEE**
19 **HAS FULLY COMPLIED WITH ANY LOSS MITIGATION ANALYSIS APPLICABLE TO**
20 **THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST THAT IS SUBJECT**
21 **TO FORECLOSURE.**

22 (3) **“LOSS MITIGATION ANALYSIS” MEANS AN EVALUATION OF**
23 **TEMPORARY AND PERMANENT OPTIONS INTENDED TO PREVENT FORECLOSURE**
24 **ON A HOMEOWNER’S OWNER–OCCUPIED PRIMARY RESIDENTIAL PROPERTY**
25 **THROUGH:**

26 (i) **LOAN MODIFICATION INTENDED TO ALLOW THE**
27 **HOMEOWNER TO STAY IN THE RESIDENTIAL PROPERTY; OR**

28 (ii) **FORECLOSURE ALTERNATIVES INTENDED TO SIMPLIFY**
29 **THE HOMEOWNER’S RELINQUISHMENT OF THE RESIDENTIAL PROPERTY.**

30 (4) **“NET PRESENT VALUE CALCULATION” MEANS A**
31 **CALCULATION THAT COMPARES THE EXPECTED ECONOMIC OUTCOME OF A**
32 **LOAN FOR A LENDER WITH OR WITHOUT A LOAN MODIFICATION.**

33 (5) **“PRELIMINARY LOSS MITIGATION AFFIDAVIT” MEANS AN**
34 **AFFIDAVIT CERTIFYING WHAT STEPS THE SECURED PARTY OR THE SECURED**

1 PARTY'S DESIGNEE HAS TAKEN REGARDING ANY LOSS MITIGATION ANALYSIS
2 APPLICABLE TO THE LOAN SECURED BY THE MORTGAGE OR DEED OF TRUST
3 THAT IS SUBJECT TO FORECLOSURE AND ADDITIONAL STEPS THAT WILL BE
4 TAKEN BY THE SECURED PARTY TO ENSURE COMPLIANCE.

5 (6) "RESIDENTIAL property" means real property improved by four or
6 fewer single family dwelling units that are designed principally and are intended for
7 human habitation.

8 (b) (1) Except as provided in paragraph (2) of this subsection, an action to
9 foreclose a mortgage or deed of trust on residential property may not be filed until the
10 later of:

11 (i) 90 days after a default in a condition on which the mortgage
12 or deed of trust provides that a sale may be made; or

13 (ii) 45 days after the notice of intent to foreclose required under
14 subsection (c) of this section is sent.

15 (2) (i) The secured party may petition the circuit court for leave to
16 immediately commence an action to foreclose the mortgage or deed of trust if:

17 1. The loan secured by the mortgage or deed of trust was
18 obtained by fraud or deception;

19 2. No payments have ever been made on the loan
20 secured by the mortgage or deed of trust;

21 3. The property subject to the mortgage or deed of trust
22 has been destroyed; or

23 4. The default occurred after the stay has been lifted in a
24 bankruptcy proceeding.

25 (ii) The court may rule on the petition with or without a
26 hearing.

27 (iii) If the petition is granted, the action may be filed at any time
28 after a default in a condition on which the mortgage or deed of trust provides that a
29 sale may be made and the secured party need not send the written notice of intent to
30 foreclose required under subsection (c) of this section.

31 (c) (1) Except as provided in subsection (b)(2)(iii) of this section, at least
32 45 days before the filing of an action to foreclose a mortgage or deed of trust on
33 residential property, the secured party shall send a written notice of intent to foreclose
34 to the mortgagor or grantor and the record owner.

1 (2) The notice of intent to foreclose shall be sent:

2 (i) By certified mail, postage prepaid, return receipt requested,
3 bearing a postmark from the United States Postal Service; and

4 (ii) By first-class mail.

5 (3) A copy of the notice of intent to foreclose shall be sent to the
6 Commissioner of Financial Regulation.

7 (4) The notice of intent to foreclose shall:

8 (i) Be in the form that the Commissioner of Financial
9 Regulation prescribes by regulation; [and]

10 (ii) Contain:

11 1. The name and telephone number of:

12 A. The secured party;

13 B. The mortgage servicer, if applicable; and

14 C. An agent of the secured party who is authorized to
15 modify the terms of the mortgage loan;

16 2. The name and license number of the Maryland
17 mortgage lender and mortgage originator, if applicable;

18 3. The amount required to cure the default and reinstate
19 the loan, including all past due payments, penalties, and fees; and

20 4. Any other information that the Commissioner of
21 Financial Regulation requires by regulation; **AND**

22 **(III) BE ACCOMPANIED BY:**

23 **1. A LOSS MITIGATION APPLICATION FOR ANY LOSS**
24 **MITIGATION PROGRAM IN WHICH THE SECURED PARTY PARTICIPATES AND**
25 **THAT IS APPLICABLE TO THE LOAN SECURED BY THE MORTGAGE OR DEED OF**
26 **TRUST THAT IS SUBJECT TO FORECLOSURE;**

27 **2. INSTRUCTIONS FOR COMPLETING THE LOSS**
28 **MITIGATION APPLICATION;**

1 **3. A TELEPHONE NUMBER AND TIME TO CALL TO**
 2 **CONFIRM RECEIPT OF THE APPLICATION SUBMITTED BY THE HOMEOWNER;**

3 **4. A STAMPED ENVELOPE ADDRESSED TO THE**
 4 **INDIVIDUAL OR ENTITY THAT IS RESPONSIBLE FOR CONDUCTING ANY LOSS**
 5 **MITIGATION ANALYSIS FOR THE LOAN; AND**

6 **5. A TIMELINE AND OUTLINE FOR THE**
 7 **FORECLOSURE PROCESS AS PRESCRIBED BY REGULATION BY THE**
 8 **COMMISSIONER OF FINANCIAL REGULATION.**

9 (d) An order to docket or a complaint to foreclose a mortgage or deed of trust
 10 on residential property shall:

11 (1) Include[:

12 (i)] **PAYMENT OF A \$100 FILING FEE;**

13 (2) If applicable, **INCLUDE** the license number of:

14 [1.] (I) The mortgage originator; and

15 [2.] (II) The mortgage lender; and

16 (3) **BE ACCOMPANIED BY:**

17 [(ii)] (I) An affidavit stating:

18 1. The date on which the default occurred and the
 19 nature of the default; and

20 2. If applicable, that a notice of intent to foreclose was
 21 sent to the mortgagor or grantor in accordance with subsection (c) of this section and
 22 the date on which the notice was sent; [and]

23 **(II) 1. IF LOSS MITIGATION ANALYSIS HAS BEEN**
 24 **COMPLETED OR IS INAPPLICABLE:**

25 **A. A FINAL LOSS MITIGATION AFFIDAVIT IN A FORM**
 26 **AS PRESCRIBED BY REGULATION BY THE COMMISSIONER OF FINANCIAL**
 27 **REGULATION; AND**

28 **B. A WORKSHEET DOCUMENTING THE**
 29 **CALCULATIONS USED TO DENY ANY MODIFICATION OR MITIGATION OF THE**
 30 **LOAN, INCLUDING THE CALCULATION OF NET PRESENT VALUE IF REQUIRED; OR**

1 You may stop the sale and reinstate your mortgage loan by paying all amounts
2 due on your loan, plus fees and costs of the foreclosure action, at any time up to one
3 business day before the sale. Please contact (insert name of authorized agent of
4 secured party) at (insert telephone number) to obtain the amount due to cure the
5 default on your mortgage loan and instructions for delivering the payment.

6 You are urged to obtain legal advice to discuss other options to stop the
7 foreclosure sale, which may include filing a motion for injunction with the circuit court
8 or a petition for bankruptcy in federal bankruptcy court. A motion for injunction or a
9 bankruptcy petition must be filed before the foreclosure sale occurs.

10 If you are interested in selling your home to avoid a foreclosure sale, you may
11 wish to contact a licensed real estate broker or salesperson as soon as possible.

12 **TO GET RELIEF, YOU MUST COMPLY WITH ALL THE REQUIREMENTS OF**
13 **YOUR LENDER’S LOSS MITIGATION PROGRAM. YOU ALSO MAY BE ELIGIBLE TO**
14 **PARTICIPATE IN FEDERAL LOSS MITIGATION PROGRAMS.**

15 **IF YOU OWN THE HOME IN WHICH YOU ARE LIVING, YOU HAVE SPECIFIC**
16 **RIGHTS UNDER MARYLAND LAW WHEN IT COMES TO LOSS MITIGATION. YOU**
17 **MAY WANT TO CONSULT AN ATTORNEY OR HOUSING COUNSELOR FOR MORE**
18 **INFORMATION ON THESE RIGHTS.**

19 Housing counseling and financial assistance programs are available through the
20 Maryland Department of Housing and Community Development. Please call (insert
21 telephone number) for information on available resources.

22 Some people may approach you about “saving” your home. You should be careful
23 about any such promises.

24 The State encourages you to become informed about your options in foreclosure
25 before entering into any agreements with anyone in connection with the foreclosure of
26 your home. There are government agencies and nonprofit organizations that you may
27 contact for helpful information about the foreclosure process. For the name and
28 telephone number of an organization near you, please call the Consumer Protection
29 Division of the Office of the Attorney General of Maryland at (insert telephone
30 number). The State does not guarantee the advice of these organizations.

31 **DO NOT DELAY DEALING WITH THE FORECLOSURE BECAUSE YOUR**
32 **OPTIONS WILL BECOME MORE LIMITED AS TIME PASSES.”; AND**

33 **(X) 1. IF THE ORDER TO DOCKET OR COMPLAINT TO**
34 **FORECLOSE CONCERNS OWNER–OCCUPIED PROPERTY AND IS ACCOMPANIED BY**
35 **A FINAL LOSS MITIGATION AFFIDAVIT:**

1 **A. A HOMEOWNER CHALLENGE PETITION AND**
2 **HOMEOWNER WORKSHEET IN A FORM PRESCRIBED BY REGULATION BY THE**
3 **COMMISSIONER OF FINANCIAL REGULATION; AND**

4 **B. A STAMPED ENVELOPE WITH THE ADDRESS OF**
5 **THE CIRCUIT COURT PREPRINTED AND A STAMPED ENVELOPE WITH THE**
6 **ADDRESS OF THE FORECLOSURE ATTORNEY; OR**

7 **2. IF THE ORDER TO DOCKET OR COMPLAINT TO**
8 **FORECLOSE IS ACCOMPANIED BY A PRELIMINARY LOSS MITIGATION AFFIDAVIT,**
9 **A LOSS MITIGATION APPLICATION, INSTRUCTIONS, TELEPHONE NUMBER, AND**
10 **STAMPED ENVELOPE AS DESCRIBED IN SUBSECTION (C)(4)(III) OF THIS**
11 **SECTION.**

12 (e) (1) A copy of the order to docket or complaint to foreclose on
13 residential property and all other papers filed with it shall be served by:

14 (i) Personal delivery of the papers to the mortgagor or grantor;
15 or

16 (ii) Leaving the papers with a resident of suitable age and
17 discretion at the mortgagor's or grantor's dwelling house or usual place of abode.

18 (2) If at least two good faith efforts to serve the mortgagor or grantor
19 under paragraph (1) of this subsection on different days have not succeeded, the
20 plaintiff may effect service by:

21 (i) Filing an affidavit with the court describing the good faith
22 efforts to serve the mortgagor or grantor; and

23 (ii) 1. Mailing a copy of the order to docket or complaint to
24 foreclose and all other papers filed with it by certified mail, return receipt requested,
25 and first-class mail to the mortgagor's or grantor's last known address and, if
26 different, to the address of the residential property subject to the mortgage or deed of
27 trust; and

28 2. Posting a copy of the order to docket or complaint to
29 foreclose and all other papers filed with it in a conspicuous place on the residential
30 property subject to the mortgage or deed of trust.

31 (3) The individual making service of process under this subsection
32 shall file proof of service with the court in accordance with the Maryland Rules.

33 **(F) IF THE ORDER TO DOCKET OR COMPLAINT TO FORECLOSE IS**
34 **ACCOMPANIED BY A PRELIMINARY LOSS MITIGATION AFFIDAVIT, THE**
35 **MORTGAGOR OR GRANTOR SHALL BE SENT BY FIRST-CLASS MAIL AND**

1 CERTIFIED MAIL AT LEAST 30 DAYS BEFORE THE DATE OF THE FORECLOSURE
2 SALE:

3 (1) A FINAL LOSS MITIGATION AFFIDAVIT AND WORKSHEET AS
4 DESCRIBED IN SUBSECTION (D)(3)(II)1 OF THIS SECTION; AND

5 (2) A HOMEOWNER CHALLENGE PETITION, HOMEOWNER'S
6 WORKSHEET, AND STAMPED, ADDRESSED ENVELOPES AS DESCRIBED IN
7 SUBSECTION (D)(3)(X)1 OF THIS SECTION.

8 [(f)] (G) A foreclosure sale of residential property may not occur until [at]
9 THE LATER OF:

10 (1) AT least 45 days after service of process THAT INCLUDES A FINAL
11 LOSS MITIGATION AFFIDAVIT is made under subsection (e) of this section; OR

12 (2) AT LEAST 30 DAYS AFTER THE MAILING OF A FINAL LOSS
13 MITIGATION AFFIDAVIT AS PROVIDED UNDER SUBSECTION (F) OF THIS SECTION.

14 (H) (1) THE TIMELY FILING OF A HOMEOWNER CHALLENGE PETITION
15 AND WORKSHEET STAYS THE FORECLOSURE PROCEEDINGS.

16 (2) NOT LATER THAN 15 DAYS AFTER RECEIPT OF THE
17 HOMEOWNER CHALLENGE PETITION AND WORKSHEET, THE COURT SHALL
18 DETERMINE WHETHER THE CHALLENGE RAISES A SUFFICIENT OBJECTION TO
19 THE FINAL LOSS MITIGATION AFFIDAVIT.

20 (3) IF THE COURT FINDS THAT THE HOMEOWNER CHALLENGE
21 PETITION AND WORKSHEET RAISE A SUFFICIENT OBJECTION TO THE FINAL
22 LOSS MITIGATION AFFIDAVIT, THE COURT SHALL ORDER THE PARTIES TO
23 ATTEND A SETTLEMENT CONFERENCE FOR THE PURPOSE OF REVIEWING THE
24 INFORMATION IN THE FINAL LOSS MITIGATION AFFIDAVIT.

25 (4) AT THE SETTLEMENT CONFERENCE:

26 (I) THE MORTGAGOR OR GRANTOR:

27 1. MAY BE REPRESENTED BY COUNSEL; AND

28 2. MAY BE ACCOMPANIED BY A REPRESENTATIVE OF
29 A HOUSING COUNSELING AGENCY APPROVED BY THE DEPARTMENT OF
30 HOUSING AND COMMUNITY DEVELOPMENT; AND

31 (II) THE SECURED PARTY:

1 **1. SHALL BE REPRESENTED BY AN INDIVIDUAL WITH**
2 **AUTHORITY TO MODIFY THE LOAN; AND**

3 **2. MAY PARTICIPATE BY TELEPHONE OR VIDEO**
4 **CONNECTION.**

5 **(5) (I) BASED ON THE FINDINGS AT THE SETTLEMENT**
6 **CONFERENCE AND ANY PLEADINGS OR COURT FILINGS, THE COURT MAY:**

7 **1. CONTINUE TO STAY THE PROCEEDINGS; OR**

8 **2. DISMISS THE STAY.**

9 **(II) IF THE COURT DETERMINES THAT THE SECURED PARTY**
10 **DID NOT PROPERLY COMPLETE THE LOSS MITIGATION ANALYSIS, THE STAY OF**
11 **THE PROCEEDINGS REMAINS IN PLACE UNTIL THE SECURED PARTY COMPLIES**
12 **WITH THE FINDINGS OF THE COURT.**

13 **(III) IF THE COURT DETERMINES THAT THE LOSS**
14 **MITIGATION ANALYSIS WAS COMPLETED PROPERLY, THE COURT SHALL REMOVE**
15 **THE STAY AND THE FORECLOSURE MAY PROCEED.**

16 **(IV) THE COURT SHALL STATE THE REASONS FOR ITS**
17 **DECISION AS PART OF THE RECORD.**

18 **[(g)] (I)** Notice of the time, place, and terms of a foreclosure sale shall be
19 published in a newspaper of general circulation in the county where the action is
20 pending at least once a week for 3 successive weeks, the first publication to be not less
21 than 15 days before the sale and the last publication to be not more than 1 week before
22 the sale.

23 **[(h)] (J)** (1) The mortgagor or grantor of residential property has the
24 right to cure the default by paying all past due payments, penalties, and fees and
25 reinstate the loan at any time up to 1 business day before the foreclosure sale occurs.

26 (2) The secured party or an authorized agent of the secured party
27 shall, on request, provide to the mortgagor or grantor or the mortgagor's or grantor's
28 attorney within a reasonable time the amount necessary to cure the default and
29 reinstate the loan and instructions for delivering the payment.

30 **[(i)] (K)** An action for failure to comply with the provisions of this section
31 shall be brought within 3 years after the date of the order ratifying the sale.

1 (L) REVENUE COLLECTED FROM THE FILING FEE REQUIRED UNDER
2 SUBSECTION (D)(1) OF THIS SECTION SHALL BE DISTRIBUTED TO THE HOUSING
3 COUNSELING FUND AS PROVIDED UNDER § 4-507 OF THE HOUSING AND
4 COMMUNITY DEVELOPMENT ARTICLE.

5 Article – Housing and Community Development

6 4-507.

7 (A) IN THIS SECTION, “FUND” MEANS THE HOUSING COUNSELING
8 FUND.

9 (B) THERE IS A HOUSING COUNSELING FUND.

10 (C) THE PURPOSE OF THE FUND IS TO ASSIST NONPROFIT HOUSING
11 COUNSELORS AND OTHER NONPROFIT ENTITIES WITH PROVIDING:

12 (1) LEGAL ASSISTANCE TO HOMEOWNERS WHO ARE TRYING TO
13 AVOID FORECLOSURE OR MANAGE FORECLOSURE PROCEEDINGS; AND

14 (2) HOMEBUYER EDUCATION, HOUSING ADVICE, OR FINANCIAL
15 COUNSELING FOR HOMEOWNERS AND PROSPECTIVE HOMEOWNERS.

16 (D) THE DEPARTMENT SHALL ADMINISTER THE FUND.

17 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT
18 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

19 (2) THE STATE TREASURER SHALL HOLD THE FUND
20 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

21 (F) THE FUND CONSISTS OF:

22 (1) REVENUE DISTRIBUTED TO THE FUND UNDER § 7-105.1 OF
23 THE REAL PROPERTY ARTICLE;

24 (2) INVESTMENT EARNINGS OF THE FUND;

25 (3) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;
26 AND

27 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
28 THE BENEFIT OF THE FUND.

1 B. The mortgage loan that is the subject of this foreclosure action is not eligible for
2 loss mitigation because (attached is proof of the facts relied upon by affiant to
3 make the following statement):

4 The property is not the primary residence of one or more of the borrowers.

5 This property has more than four dwelling units.

6 The property is vacant or condemned.

7 The mortgage loan is not a first mortgage.

8 The amount that is currently owed on the mortgage loan is greater than
9 \$_____ (not including attorney’s fees and past due payments),
10 which makes it ineligible under the relevant program.

11 The monthly amount due on the mortgage, including total monthly
12 payment of principal, interest, taxes, insurance, homeowner association
13 dues (if applicable) is less than _____% of the borrower’s gross (pretax)
14 monthly income, making the loan ineligible for modification.

15 The borrower has already failed a modification trial period plan and is
16 not eligible for any other loss mitigation relief.

17 The loan is owned by investor(s) that have not given the servicing agent
18 authority to enter into any loss mitigation with the borrower (attached is
19 proof of this restriction).

20 Other loss mitigation options are not appropriate (attached is a summary
21 of the options reviewed with the borrower).

22 Other: _____

23 I solemnly affirm that the content of the foregoing affidavit is true and correct.

24 Executed on _____, 20__.

25 Print Name: _____

26 Title: _____;

27 (2) Preliminary Loss Mitigation Affidavit

28 PRELIMINARY LOSS MITIGATION AFFIDAVIT

29 My name is _____. I am a _____ for the plaintiff in the
30 above-referenced case. I have personal knowledge of the facts set forth in this affidavit

1 and I am authorized to execute it on the plaintiff's behalf. I do hereby declare and
2 affirm as follows (check only the boxes that state facts being declared and affirmed):

3 Yes No The mortgage loan is owned, securitized, insured or guaranteed by
4 FNMA, FHLMC, or FHA or the servicing agent is participating in the
5 federal Making Home Affordable Program or in a similar loss mitigation
6 program.

7 The mortgage loan that is the subject of this foreclosure action is eligible for loss
8 mitigation and:

9 The loan currently is under loss mitigation analysis, and, as of 7 days
10 prior to the date of this affidavit, the following documentation is needed
11 from the borrower(s) to complete the analysis:

12 _____
13 _____
14 _____

15 The mortgage loan is not currently under loss mitigation analysis
16 because:

17 _____
18 _____
19 _____

20 Prior to scheduling a foreclosure sale of this property, the following steps will be taken
21 to contact the borrower or to obtain the required documents:

22 _____
23 _____
24 _____

25 I solemnly affirm that the content of the foregoing affidavit is true and correct.

26 Executed on _____, 20__.

27 Print Name: _____
28 Title: _____; and

29 (3) Homeowner Challenge Petition and Related Documents

30 HOMEOWNER CHALLENGE PETITION

31 SECTION 1. TO BE COMPLETED BY THE FORECLOSING ATTORNEY

32 This petition of challenge to the foreclosure on your residence is to be filed in the
33 Circuit Court for (appropriate court), Case Number (appropriate case number or
34 identifier). The court's address is: (address of the appropriate court). The foreclosing
35 attorneys' address is: (address). This form must be filed with the court and sent to the
36 foreclosing attorneys before (date).

1 SECTION 2. INSTRUCTIONS TO HOMEOWNER

2 Please read carefully! If you have questions or are unsure about how to fill out this
3 form, contact the Maryland Foreclosure Hotline at (phone number) or go to the website
4 at (web address).

5 Every box that is true must be checked. The homeowner's worksheet must be
6 completed.

7 You must file this form with the court at the address in Section 1 above and you must
8 also mail a copy to the foreclosing attorneys at the address in Section 1 above.

9 DO NOT DELAY! You must file this form with the court and mail it to the attorneys
10 before the date identified in Section 1.

11 Keep a copy of everything you send. Get a mail receipt confirmation to show the date
12 you sent your records.

13 SECTION 3. HOMEOWNER'S PETITION TO STOP THE FORECLOSURE AND TO
14 HAVE A SETTLEMENT CONFERENCE

15 My name is _____. I am a borrower on the mortgage loan that is the
16 subject of a foreclosure. I believe my loan should have been modified under a federal or
17 other loss mitigation program.

18 By returning this form, I request that this court stay the foreclosure action to
19 determine whether my lender has complied with the appropriate loss mitigation
20 requirements. I ask the court to refer my case to a Settlement Conference to determine
21 whether my loan should have been modified or some other loss mitigation was
22 justified.

23 I support my request with the following facts, which I affirm are true (check the boxes
24 next to facts that are true):

25 My request for a mortgage modification or mitigation has been denied and I
26 believe that decision is wrong based on facts I have set out in these documents.

27 I received notice of the denial of modification or loss mitigation on
28 _____ (date).

29 I was not given an opportunity to see if my mortgage could be modified or if
30 other mitigation was appropriate. (You must attach a statement describing why
31 you did not receive the materials that the lender has indicated were sent you or
32 respond to any other attempts to contact you that the lender has documented on
33 the attached Final Affidavit of Loss Mitigation.)

34 The property that is the subject of the foreclosure is my primary residence.

1 \$ _____ My regular monthly mortgage payment (not including any
2 late fees or other charges)

3 Add: \$ _____ Monthly taxes and insurance (yearly total for insurance
4 and taxes, if not included in your monthly mortgage
5 payment, divided by 12)

6 Add: \$ _____ Monthly Homeowner’s Association or Condominium fees
7 (if applicable)

8 Equals \$ _____ TOTAL MONTHLY MORTGAGE PAYMENT

9 3. CALCULATING THE TARGETED MONTHLY MORTGAGE PAYMENT:

10 Use the information from above to complete this section to determine the target
11 amount to be used to see if your loan can be modified:

12 TOTAL GROSS MONTHLY INCOME (from Worksheet Section 1 above)
13 \$ _____ multiplied by _____% (percentage to be filled in by secured party) =
14 \$ _____ (TARGETED MONTHLY MORTGAGE PAYMENT)

15 4. IMPORTANT QUESTIONS.

16 Is the TARGETED MONTHLY MORTGAGE PAYMENT less than your current
17 TOTAL MONTHLY MORTGAGE PAYMENT (from Worksheet Section 2)?
18 Yes No

19 Can you afford to make the TARGETED MONTHLY MORTGAGE PAYMENT every
20 month?
21 Yes No

22 I/We solemnly affirm that the contents of this petition are true to the best of my/our
23 knowledge, information, and belief.

24 _____
25 Borrower signature Co-Borrower signature
26 (if applicable)

27 ORDER OF STAY

28 Upon meeting the above-outlined criteria, for good cause shown, the foreclosure action
29 identified above is stayed pending the outcome of a Settlement Conference between
30 both parties.

31 _____
32 Judge

1
2

Date.

3 SECTION 4. AND BE IT FURTHER ENACTED, That when the Commissioner
4 of Financial Regulation notifies the Department of Legislative Services that the
5 regulations the Commissioner is required to adopt are in effect, the documents
6 described in Section 3 of this Act may no longer be used and the documents prescribed
7 by regulations adopted by the Commissioner shall be used.

8 SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency
9 measure, is necessary for the immediate preservation of the public health or safety,
10 has been passed by a yea and nay vote supported by three-fifths of all the members
11 elected to each of the two Houses of the General Assembly, and shall take effect from
12 the date it is enacted.